




**LAC  
DMH**  
LOS ANGELES COUNTY  
DEPARTMENT OF  
MENTAL HEALTH

## DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT  <b>PERSONAL SEARCHES OF INDIVIDUALS ADMITTED TO LANTERMAN-PETRIS-SHORT DESIGNATED FACILITIES</b>	POLICY NO.  <b>301.01</b>	EFFECTIVE DATE  <b>01/24/2014</b>	PAGE  <b>1 of 6</b>
APPROVED BY:    Director	SUPERSEDES  <b>202.10 10/01/1989</b>	ORIGINAL ISSUE DATE  <b>08/27/1980</b>	DISTRIBUTION LEVEL(S)  <b>1, 2</b>

### PURPOSE

- 1.1 To provide Lanterman-Petris-Short (LPS) Designated staff and Programs of the County of Los Angeles Department of Mental Health (LACDMH) with policy and procedures regarding personal searches in order to ensure the safety of clients, staff, and others.
- 1.2 To protect the client's/individual's constitutional and statutory rights to privacy, dignity, and freedom from unreasonable search and seizure in any mental health program.

### DEFINITION

- 2.1 **Lanterman-Petris-Short Authorized Staff:** Staff who are directly authorized by the Local Mental Health Director (LMHD) to exercise 5150 detention authority in the course of their employment in a specifically approved program.
- 2.2 **Personal Searches:** Searches of a person, his clothing, his body, and/or his personal possessions.
- 2.3 **Pat-down Searches:** Searches of an individual's outer clothing by physically applying pressure over clothed areas in order to detect objects between the clothes and body.
- 2.4 **Strip Searches and Skin Searches:** Searches whereby removal of the person's clothing for purposes of an inspection of all or part of his/her body to determine the presence of weapons, contraband, or other items, whether visually or manually.



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### POLICY

- 3.1 Personal searches (search of a person, his/her clothing, his/her body, and/ or his/her personal possessions) may be conducted only when there is probable cause to believe that the client/individual has in his/her possession a weapon or contraband, and there is no less intrusive way of handling the situation. Searches may not be conducted on a programmatic or routine basis. Probable cause may be any of the following:
  - 3.1.1 The client/individual has a past/recent history (i.e., within six months) of illegal drug use, and there is reason to believe he/she may attempt to smuggle such drugs into the facility.
  - 3.1.2 The client/individual appears self-destructive or threatening, and there is reason to believe he/she may covertly bring dangerous objects into the institution.
  - 3.1.3 The client/individual has, in the past, been caught bringing illegal drugs or potential weapons into the institution or having such drugs or potential weapons in his/her possession while there.
  - 3.1.4 The client/individual appears to be under the influence of a drug.
  - 3.1.5 The client's/individual's drug usage and/or possession of drugs or potential weapons while in the facility have been reported to the facility staff.
- 3.2 The search must be made in a reasonable manner, with respect for the client's/individual's dignity and privacy.
- 3.3 The client/individual must be given an opportunity to be present during all inspections of his/her belongings.



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- 3.4 The facility's policies regarding searches should be made known to all clients/individuals upon admission.

### **PROCEDURE**

- 4.1 The prior permission of the client/individual for a search should be secured. If the person refuses, a search may be conducted even in instances in which the client/individual has denied permission.
- 4.1.1 If the client/individual refuses to give consent/permission and the search is conducted, it shall be considered a denial of rights per California Welfare and Institutions (W&I) Code Section 5328 (Reference 1), California Code of Regulations Title 9 Sections 865.2 and 865.3 (Reference 2), and provisions therein shall be followed.
- 4.2 If a search is conducted, the following items shall be documented in the person's treatment record:
- 4.2.1 All facts that constitute probable cause to conduct the search.
- 4.2.2 The scope of the search and a record that documents the manner in which it was conducted (who conducted it, witnesses present, what was searched, list of items seized, etc.).
- 4.2.3 Such record shall be open to inspection by the Los Angeles County Patient's Rights Advocate.
- 4.3 Nothing in this policy precludes the inventorying of the person's possessions upon admission.
- 4.4 Disposition of confiscated items:
- 4.4.1 Applicable confiscated items may be turned over to the police in response to a warrant or under the provisions of W&I Code



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Sections 5328.4 and 8100-8102 and California Penal Code Section 12020. (Reference 3)

- 4.4.1.1 When the client/individual is released, the professional in charge of the facility, or his or her designee, shall notify the client/individual of the procedure for the return of any firearm or other deadly weapon which has been confiscated [per the facility's Firearms Prohibition policy].
- 4.4.1.2 All personal property that has not been turned over to the police or destroyed must be sent with the client/individual upon transfer to another facility, or returned to the client/individual upon discharge unless otherwise directed by a physician's order.
- 4.5 A search may be conducted only to the extent required in order to find the dangerous contraband (for example: if a gun is suspected to be in the possession of a client/individual, the staff may search a locker, but they cannot open the person's wallet).
- 4.6 Pat-down searches of a client's/ individual's outer clothing (physically applying pressure over clothed areas in order to detect objects between the clothes and the body) are allowable only under the conditions listed in paragraph 4.5 above.
  - 4.6.1 A pat-down or "frisk" is intended to discover whether a client/individual is carrying on his/her person any weapon or contraband or other items that can be reasonably thought to threaten the peace and security of the facility environment. If in the course of a pat-down on the external clothing, a hard, suspicious object(s) is discovered which could reasonably be, for example, a weapon or bottle of pills, the staff person conducting the search may remove the object(s) for closer inspection. Staff is not authorized to search pockets unless, during the pat-down of the person's outer clothing, they feel an object which may be a weapon or dangerous drug.



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- 4.6.2 Pat-down searches may be conducted only by treatment staff who have been specially trained to perform such duties and who are of the same gender as the client/individual being searched.
- 4.7 Strip searches and skin searches, whereby the person's clothing is removed for purposes of an inspection of all or part of his/her body to determine the presence of weapons, contraband, or other items, whether visual or manual, may be conducted under the following circumstances if necessary for safety:
- 4.7.1 There is sufficient cause to believe the client/individual is harboring dangerous contraband on his/her person.
  - 4.7.2 There is great likelihood the client/individual will personally use such contraband to seriously harm him/herself or others.
  - 4.7.3 The justification for the search, including the basis for concluding 4.7.1 and 4.7.2 above, is entered into the treatment record.
  - 4.7.4 There is adequate documentation in the treatment record to support the above justification.
  - 4.7.5 All less intrusive methods of discovery have been tried and the attempts documented.
  - 4.7.6 Written approval of the search has been given and so documented within twenty four (24) hours by the Medical Director of the facility.
  - 4.7.7 **The inspection is conducted in private only by a licensed physician.** Two staff persons should be in attendance. If the physician and the client/individual are of different genders, then the other staff member should be of the same gender as the client/individual being examined. No other persons should be present.
  - 4.7.8 The reasons for the search are made known to the client/individual.



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4.7.9 All other provisions of this policy are met.

4.7.10 Further, even if all the above criteria have been met, voluntary clients/individuals shall have an absolute right to refuse to submit to any "body" or "strip" search. They shall be advised of this fact prior to the search and shall be given the option of leaving the facility rather than submitting to the search.

### **AUTHORITY**

1. Welfare and Institutions Code Sections 5328.4 and 8100-8102
2. California Code of Regulations Title 9 Sections 865.2 and 865.3
3. California Penal Code Section 12020

### **RESPONSIBLE PARTY**

LACDMH Office of the Medical Director